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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/893,522

06/29/2001

George Hoshi

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EXAMINER

FOX, JOHN C

ART UNIT

PAPER NUMBER

3753

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/893,522	<b>Applicant(s)</b> HOSHI ET AL.	
	<b>Examiner</b> John Fox	<b>Art Unit</b> 3753	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 35-48 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 35-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This Action is responsive to the communication filed May 14, 2007.

Claims 5-6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 15, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 35/1 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson shows a gas line mounted on a rail 42 and discloses as column 12, lines 18-29, that each line can be mounted on transverse rails. Any solid object is slidable on a rail. One could take a Johnson line out to a railroad track and slide it on the rail. That is all the claim calls out. This rejection is proper and will be maintained.

Applicant's arguments have been fully considered but they are not persuasive. Applicant's argument about the railroad track are misplaced. The Examiner was illustrating the broad scope of the claim limitation, and why it is not allowable. The Examiner can give another example. Take a metal key and place it on a flat metal surface, and push it sideways. Does it slide? The correct answer is yes, and the key can be described as "slidable" even if that is not a feature of keys commonly discussed.

As to applicant's assertion that the Examiner has taken official notice of the orthogonal rail, this is incorrect. The disclosure of the orthogonal rail in Johnson has been set forth in the record.

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As to applicant's opinion that the disclosure of Johnson does not meet the claim language, the Examiner does not agree. Track 42 is shown in Figures 3 and 4. The nature of track 42 can be discerned from the disclosure. For example, column 5, lines 36-37 state:

Gas handling units 44-48 are **slidably** and **adjustably** mounted on track 42 and are selectively securable thereon. (emphasis added)

Claims 1-4, 35, 37-42, and 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Itoh et al. Johnson shows the claimed device except uses tubing connected fluid handling devices. Itoh et al show an improvement over tubing connecting fluid handling devices with coupling blocks 21 for mounting the fluid handling devices. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have configured the Johnson gas line from such modular components as taught by Itoh et al to reduce costs, for example. The provision of a spare rail for future use is considered to be an obvious expedient. Assembling a system as recited in the claims is seen to be an obvious step.

Applicant's arguments have been fully considered but they are not persuasive. As noted above, Johnson teaches "the tracks being slidable in a direction orthogonal to the lines".

Applicant's speculation about actual costs are also misplaced. Itoh et al provide a motivation to use modular units to make the gas stick, which satisfies the requirement for such motivation, as far as it is needed. Moreover, both methods of making a gas

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stick were well known at the time the instant invention was made, and using one instead of the other is a classic example of obviousness under § 103.

Applicant's remark "When the Examiner attempts to discuss the claimed spare line" is unnecessarily offensive and is not well taken. The Office Action of April 16, 2006 states:

"As to the spare rail, a routineer in the art is aware that these installations need to be changed from time to time to accommodate changing needs, including adding different types of gasses or reducing the number of gasses. The simple expedient of allowing for future expansion is a trivial step in the art. Indeed, Figure 10 of Johnson shows an installation with only two gas sticks, yet the box can accommodate four."

The Examiner does not rely on Figure 10 of Johnson, but offers a reason for concluding that the claimed spare rail is obvious and cites Figure 10 as evidence in support of the reasoning. Thus, applicant's argument that "Fig. 10 of Johnson does not show the features set forth in claim 37" is, again, misplaced.

Claims 36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Itoh et al and further in view of Markulec et al.

Johnson, as modified, shows the claimed device except for the shape of the tracks. Markulec et al show a gas stick system with a downward tapered groove and nut, see Figure 6a. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a downward tapered groove and nut in the system of Johnson, as modified, in view of the readily apparent equivalence between the two tracks.

Applicant's note the typographic error of citing Vu et al instead of Johnson. The error is regretted. Since the same error occurred in the two prior Office Actions and the issue was not raised in either of applicant's responses thereto, it appears that applicant understood the grounds of rejection and the rejection will be maintained.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 571-272-4912. The examiner can normally be reached on Patent Hoteling Program.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Fox/  
Primary Examiner  
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